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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/993,333 | 11/14/2001 | Larry Wayne Oberley | 875.042US1 | 5690 |

21186 7590 12/29/2005

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| EXAMINER |
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SCHULTZ, JAMES

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| ART UNIT | PAPER NUMBER |
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1635

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,333

Applicant(s)

OBERLEY ET AL.

Examiner

J. D. Schultz, Ph.D.

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-8,11-15 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 2,3,5-8,11-15 and 18-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

The amendment of all pending claims in the instant application such that antisense to 5 distinct targets, each comprising separate and distinct sequences, necessitates the following restriction requirement.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 2, 3, 6-8, 11-15, and 18-22, drawn to antisense compounds and methods of targeting manganese superoxide dismutase, classified in class 514, subclass 44.
- II. Claims 2, 3, 6, 7, 20, 21, and 23, drawn to antisense compounds targeting copper and zinc superoxide dismutase, classified in class 514, subclass 44.
- III. Claims 2, 3, 5-7, 20, 21, and 24, drawn to antisense compounds targeting catalase, classified in class 514, subclass 44.
- IV. Claims 2, 3, 5-7, 20, 21, and 25, drawn to antisense compounds targeting phospholipid glutathione peroxidase, classified in class 514, subclass 44.
- V. Claims 2, 3, 6, 7, 20, 21, and 26, drawn to antisense compounds targeting cytosolic glutathione peroxidase, classified in class 514, subclass 44.

Pursuant to 35 U.S.C. 121 and 37 C.F.R. 1.141, the multiple target sequences recited in the claims above are subject to the restriction set forth below. The Commissioner has partially waived the requirements of 37 C.F.R. 1.141 and will permit a reasonable number of such nucleotide sequences to be claimed in a single application. Under this policy, up to 10 of

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independent and distinct nucleotide sequences will be examined in a single application (see MPEP 803.04 and 2434).

The instant claims are drawn to multiple targets and antisense directed thereto. The instant target sequences are considered to be unrelated, since each target sequence claimed is structurally and functionally independent and distinct because each target sequence has a unique nucleotide sequence, each having different functions, and which are not disclosed as capable of use together. The antisense thereto are correspondingly unrelated. Furthermore, a search of more than one (1) of the target sequences claimed in the above listed claims presents an undue burden on the Patent and Trademark Office due to the complex nature of the search and corresponding examination of more than one (1) of the claimed target sequences. In view of the foregoing, one (1) target sequence is considered to be a reasonable number of sequences for examination. Accordingly, applicants are required to elect one (1) sequence for searching.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, and because a search for art against one group would not necessarily return art against another, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR

1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Douglas Schultz, Ph.D. whose telephone number is 571-272-0763. The examiner can normally be reached on 8:00-4:30 M-F.

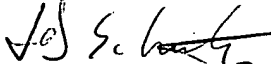
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached at 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

JDS


J.D. SCHULTZ, Ph.D.
PATENT EXAMINER